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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/656,547 | 09/04/2003 | Theodore Sirkin | | 8174 |

7590 10/19/2005

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EXAMINER

BARNEY, SETH E

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3752

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/656,547 | Applicant(s) SIRKIN, THEODORE | |
| | Examiner Seth Barney | Art Unit 3752 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/25/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-15 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,193,114 to Hopkins.

The statement of intended use holds no patentable weight. The attachment being attached to a spray type water sprinkler head that receives water under pressure, and the attachment having a portion for allowing the flushing of the sprinkler head without saturating the immediate area around the sprinkler head is a statement of intended use.

Regarding claim 1, Hopkins discloses a spraying attachment having:

-a body having a first arm (23) with a duct (35) extending therethrough capable of flushing out water.

-a second arm (C) having a duct (26) extending therethrough capable of redirecting water

-an outwardly extending third arm (A) capable of being engaged by the user to facilitate connection

Regarding claim 2, the second arm of the attachment directs fluid in a direction angularly located to the direction of the flow in the first arm. See Figure 1A.

Regarding claim 3, the second arm of the attachment directs water at approximately 90 degrees. See Figure 1A.

Regarding claim 4, the first and second arms of the attachment are integral with one another and the ducts generally have the same diameter. See Figures 1A and 1B.

Regarding claim 5, the third arm of the attachment is integral to the first and second arms and extends parallel to the second arm and perpendicular to the first arm. See Figure 1A.

Regarding claim 6, a fourth arm (B) is attached to the first, second, and third arms, such that it is parallel to the first arm and perpendicular to the second arm. See Figure 1A.

Regarding claim 7, the third arm of the attachment is integral to the first and second arms and extends in a direction parallel to the second arm and also has a duct in fluid communication with the first and second arms. The attachment also includes caps (31) that can be used to prevent the flushing of fluid therethrough. See Figure 1A.

Regarding claim 8, a fourth arm is also connected to the first, second, and third arms in a parallel direction to the first arm and perpendicular to the second arm, and the third arm is located parallel to the second arm and perpendicular to first arm and the fourth arm is located parallel to the first arm and perpendicular to the second arm. See Figure 1A.

Regarding claim 9, the fourth arm has a duct extending therethrough. See Figure 1A.

Regarding claim 10, Hopkins discloses a spraying attachment having:

-first (23) and second (C) arms that are angularly located with respect to one another capable of diverting water being flushed through. See Figure 1A.

-a third arm (A) extending angularly with respect to the first and second arms and also being capable of directing water being flushed through. See Figure 1A.

-threaded connection means (24, 27, 28, 29) on the arms capable for connection to a threaded section of an upper end of a sprinkler head.

Regarding claim 11, the attachment is shaped like a cross. See Figure 1A.

Regarding claim 12 and 15, the threaded connection means on the first arm comprises a female threaded section (24), which would be received on a male threaded connection. See Figure 1A.

Regarding claims 13 and 14, the connection means (27,28,29) on the other arms are male threaded and would be received in a female threaded connection. See Figure 1A.

Regarding claim 19, Hopkins discloses an attachment having:

-a tube (23 and B) having an inner duct (26) extending therethrough from end to end of the tube and is capable of being attached to the upper end of a sprinkler head and is vertically arranged. See Figure 1A.

-the lower end of the tube is whatever size necessary to make engagement

-first threaded connection means (24) at the tube capable of connecting to the threads of a pop-up riser, such that the duct would be vertically arranged.

-a second threaded connection (28) allowing for attachment to a different type of threaded connection.

Regarding claim 20, the device has another tube (A and C) extending angularly away from the first tube. See Figure 1A.

Regarding claim 21, the device has different types of connection means spaced apart from each other.

Regarding claim 22, the lower end is of the appropriate size to make the connection.

Regarding claim 23, the device has both internally and externally threaded sections.

Regarding claim 24, size is not a patentable feature, and the device of Hopkins would fit into a garden hose depending on the size of the hose.

3. Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,257,826 to Prassas et al.

The statement of intended use holds no patentable weight. Flushing water and any collected debris from a sprinkler head body is a statement of intended use.

Prassas et al. discloses an irrigation fitting having:

- a sprinkler head body (28)
- a connecting attachment (10) for attachment the sprinkler head body
- attaching means (38 and 36)
- a vertically arranged pipe (12)
- an angular pipe(16) angled 90 degrees with respect to the vertically arranged pipe.

-wherein the attachment is attached to the sprinkler head and allows for the flushing of water.

The apparatus shown by Prassas is capable of performing the method or steps recited in the claim.

Response to Arguments

4. Applicant's arguments filed August 25, 2005 have been fully considered but they are not persuasive.

Regarding the arguments on pages 14-16, that "Hopkins must be non-analogous art", are not persuasive. Statements of intended use carry no patentable weight. The toothpaste dispenser of Hopkins meets all of the structural limitations of the claims.

Regarding the arguments on page 16, that "the instant application is a tool", are not persuasive. The claims do not recite any limitation requiring a tool or excluding a fitting.

Regarding the arguments on page 17, that "there is no stream of water in Hopkins" and that "the material is not carried in a first direction and then a second direction along with debris for removal of debris" are not persuasive. Again, intended use does not carry patentable weight. Hopkins meets all the structural limitations of the claims.

Regarding the arguments on page 18, that "Hopkins has no capability of flushing water" are not persuasive. Hopkins meets all of the structural limitations of the claims and regardless of scale would perform the same function as the instant application when water flows through it.

Regarding the arguments on page 18, that “Hopkins has no arms which are used to connect to anything other than caps” are not persuasive. The arms of Hopkins are threaded and therefore would inherently facilitate any threaded connection. Hopkins meets the structural limitations of the claim.

Regarding the arguments on page 19, that “the claims are specifically directed to the capability of redirecting water normally passing through the sprinkler to a remote site” are not persuasive. The references cited meet the structural limitations of the claims and would redirect water in the same manner as the instant application. Hopkins is structurally capable of redirecting water.

Examiner notes some structural differences are present between the instant application and the prior art of record and invites Applicant to incorporate such structure into the claims.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sb

Seth Barney
Examiner
Art Unit 3752



David A. Scherbel
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